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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

SHAWN LOPEZ, JR.

Defendant and Appellant.

F078022

(Super. Ct. No. F18901685)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Jonathan M. Skiles, Judge.

Jacquelyn Larson, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Detjen, Acting P.J., Smith, J., and Snauffer, J.

STATEMENT OF APPEALABILITY

This appeal follows appellant Shawn Lopez, Jr.'s plea of nolo contendere and is based on the sentence or other grounds that arose after entry of the plea and that do not affect the plea's validity. (Cal. Rules of Court, rule 8.304(b)(4)(B).)

STATEMENT OF THE CASE

After a preliminary hearing, an information was filed in this case on June 15, 2018.¹ The information charged Lopez with felony unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a); count 1); felony receiving stolen property (Pen. Code, § 496d, subd. (a);² count 2); and misdemeanor driving on a suspended or revoked privilege (Veh. Code, § 14601.1, subd. (a); count 3). The information also alleged three prior felony convictions pursuant to section 667.5, subdivision (b), including a prior strike conviction pursuant to section 667, subdivisions (b) through (i), and section 1170.12, subdivision (a).

On July 19, Lopez pleaded nolo contendere to counts 1 through 3, and admitted the strike and the three priors. At the change of plea hearing, the court indicated it would impose a maximum ultimate disposition of six years, with the possibility of probation if Lopez obtained long-term treatment.

Lopez was sentenced on August 23. The court denied a *Romero*³ motion, stating that the strike prior was from ten years ago, and there had been a relatively short period of time between offenses returning Lopez to custody. The court also denied probation. The court sentenced Lopez to six years on count 1, doubling the term of three years because of the admitted strike. The court struck the punishment of one year for each of the three prior prison terms admitted by Lopez under section 667.5, subdivision (b). On

¹ All dates are in 2018 unless otherwise stated.

² Undesignated statutory references are to the Penal Code.

³ *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

count 2, the court sentenced Lopez to six years, doubling the term of three years due to the strike prior, but stayed the sentence pursuant to section 654. On count 3, Lopez was sentenced to 180 days at Fresno jail.

Lopez was credited 341 days, with 171 actual day credits and 170 good and work time credits. The court reserved restitution issues and found an inability to pay fines and fees.

A notice of appeal was timely filed on August 30.

STATEMENT OF THE FACTS⁴

On March 6, at about 6:30 p.m., Maria M.'s vehicle, a 2005 Malibu worth about \$2,000, was parked in the driveway to her home with the keys in it as she and her husband were unloading bottles of water from the car.⁵ Maria saw a man walk by who was taller than five feet, with shoulder-length hair, loose black clothes and a hat.

As Maria and her husband went in their house with the bottles of water, the man got into the car, turned on the engine and drove away. He did not have permission to drive the car. Maria's daughter called the police, and Maria's son and husband followed the car.

An officer caught up with Maria's husband and son near a canal bank; Maria's husband and son informed the officer that the male driver had gotten out of the car and jumped into the canal.

The officer identified Lopez as the man they found in the canal. The officer testified that he shouted to the man in the canal, "Shawn, is that you," and Lopez affirmed. The officer told Lopez to climb out of the canal, and Lopez was taken into custody.

⁴ The facts are taken from the preliminary hearing transcript.

⁵ We refer to the victim in this case by her first name to protect her privacy. No disrespect is intended.

APPELLATE COURT REVIEW

Lopez's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating Lopez was advised he could file his own brief with this court. By letter on May 3, 2019, we invited Lopez to submit additional briefing. To date, he has not done so.

After independently reviewing the entire record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.